

perimeter of the balloon when inflated generally decreases from the proximal portion towards the distal portion of the balloon, and an inflation lumen having access to the interior of the balloon for inflating the balloon;

- BS
- (b) making an incision in a body;
 - (c) inserting the balloon through the incision into the anatomical region;
 - (d) directing the balloon to the vicinity of the anatomical structure; and
 - (e) inflating the balloon to dissect tissue in the anatomical region to

provide access to the anatomical structure such that the amount of dissection varies along the longitudinal axis of the balloon.

REMARKS

Applicants appreciate the thorough and careful review that the Examiner has made of this application. In the Office Action dated April 25, 2000, the Examiner rejected claims 2, 3, 10 and 41 under 35 U.S.C. § 112, second paragraph; rejected claims 1-5, 8-21, 23-25 and 34-42 under 35 U.S.C. § 102 (e); and objected to claims 6, 7, 22 and 26-33 as being allowable if rewritten in independent form. Applicants have amended the claims to resolve any possible § 112 issues and have amended independent claims 1 and 23 to recite language similar (but not identical) to that of claim 7. Applicants also cancelled claims 7 and 40-42.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 2, 3, 10 and 41 under 35 U.S.C. § 112, second paragraph, for being indefinite. Specifically, the Examiner rejected claims 2 and 3 for

being functional in scope and failing to further structurally limit the invention, rejected claim 10 for having "an infinite range due to the fact that the ankle (which varies from person to person) is the base of the dimension," and claim 41 for depending on itself.

Applicants have amended claims 2, 3 and 10 and cancelled claim 41 without prejudice to filing claim 41 in another application. For example, claim 2 was amended to recite that the balloon has a shape that causes non-uniform dissection upon inflation. Claim 3 was similarly amended and also now depends on claim 2 instead of claim 1. In claim 10, the phrase "small enough upon inflation" was replaced by "adapted" and the phrase "upon inflation" was added. Thus, applicants submit that claims 2, 3 and 10, as amended, fully satisfy the requirements of Section 112.

Claim Rejections under 35 U.S.C. § 102(e)

The Examiner rejected claims 2, 3, 10 and 41 under 35 U.S.C. § 102(e) as being anticipated by Echeverry et al. U.S. Patent No. 6,015,421 ("Echeverry"). However, the Examiner found claims 6, 7, 22 and 26-33 to be allowable if rewritten in independent form.

Claim 7 recited that "the balloon has a distal portion and a proximal portion, the diameter of the balloon when inflated generally decreases from the proximal portion towards the distal portion of the balloon." Applicants note that if the diameter of the inflated balloon were to decrease, the perimeter and volume of the inflated balloon would also decrease. Thus, the claim would be likewise patentable if the claim were to recite that the diameter, volume or perimeter of the inflated balloon generally decreases from the proximal portion towards the distal portion of the balloon. Accordingly, claim 1 has been amended to include the phrase – the balloon has a distal portion and a proximal portion,

the perimeter of the balloon when inflated generally decreases from the proximal portion towards the distal portion of the balloon --. Therefore, independent claim 1 is allowable for the same reasons that claim 7 is allowable.

Independent claims 21, 23 and 37 have been amended to recite that the diameter, volume or perimeter of the inflated balloon generally decreases from the proximal portion towards the distal portion of the balloon. Therefore, claims 21, 23 and 37 are allowable for the same reasons that claim 7 is allowable. Because the limitations of claim 7 have been incorporated essentially into the independent claims, claim 7 has been cancelled.

Hence, applicants submit that independent claims 1, 21, 23 and 37, as amended, are in condition for allowance. Since claims 40-42 have been cancelled, all of the remaining dependent claims 2-6, 8-20, 22, 24-36 and 38-39 are allowable for at least the same reasons that their respective independent claims are allowable.

CONCLUSION

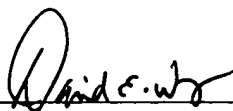
For the foregoing reasons, Applicants respectfully assert that the claims are now in condition for allowance. Favorable action on the merits of the claims is therefore earnestly solicited.

Respectfully submitted,

LYON & LYON LLP

Dated: August 14, 2000

By: _____


David E. Wang
Reg. No. 38,358

633 West Fifth Street, Suite 4700
Los Angeles, California 90071-2066
Tel: (213) 489-1600
Fax: (213) 955-0440